

**Texas Board of Criminal Justice**  
*196th Meeting*



**Minutes**

**February 23, 2018**  
**Austin, Texas**

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## TEXAS BOARD OF CRIMINAL JUSTICE

**Wyndham Garden Hotel  
Lake Travis/Lake LBJ Room and Blanco Room  
3401 South IH 35  
Austin, Texas 78741**

**February 23, 2018  
11:30 AM – 2:15 PM**

### ORDER OF BUSINESS

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*Call to Order*

*Convene Texas Board of Criminal Justice (TBCJ)*

I. Regular Session – Lake Travis/Lake LBJ Room

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. 195th TBCJ Meeting Minutes
4. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles – Overview of the Texas Board of Pardons and Paroles Fiscal Year 2017 Annual Review

D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

E. Report from the Chairman, TBCJ

F. Internal Audit Status Report for Fiscal Years 2017 – 2018

G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy 01.04, “Standards of Conduct for the Texas Board of Criminal Justice and the Executive Director of the Texas Department of Criminal Justice”

- I. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code Chapter 152 Correctional Institutions Division
  - 1. Subchapter A, Mission and Admissions
  - 2. Subchapter B, Correctional Capacity
- J. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 163.25, Community Justice Council and Plans
- K. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 163.42, Substantial Noncompliance
- L. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions
  - 1. Request for Gas Pipeline Easement at the Ellis Unit in Walker County, Huntsville, Texas
  - 2. Request for Right-of-Way Easements at the Clemens Unit in Brazoria County, Brazoria, Texas
- M. Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project - Request to Replace Steam Lines at the McConnell Unit in Bee County, Beeville, Texas

*Reconvene TBCJ*

II. Executive Session – Blanco Room

- A. The TBCJ may convene into Executive Session.
- B. Discussion of personnel matters relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion regarding deployment of security personnel, devices, or security audits (Closed in accordance with Section 551.076, Government Code).
- D. Discussion regarding security assessments or deployments relating to information resources technology, confidential network security information, or the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices (Closed in accordance with Section 551.089, Government Code).
- E. Consultation with legal counsel regarding pending or contemplated litigation or settlement offers; to receive legal advice on items posted on this agenda; or consultation on a matter where the TBCJ seeks the advice of its attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

*Adjourn*

*The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.*



## **Convene the Texas Board of Criminal Justice**

Chairman Dale Wainwright convened the 196th meeting of the TBCJ on Friday, February 23, 2018, at 11:33 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." No speaker registration cards were received for public presentations prior to the deadline.

### **Recognitions**

Bryan Collier, TDCJ Executive Director, introduced Jeremy Desel as the new Director of Public Information, and highlighted his career. He stated Mr. Desel has a wealth of media experience that he brings to the TDCJ.

Sharon Howell, TDCJ General Counsel, introduced Calysta Lantiegne as the new Deputy General Counsel, and highlighted her career. She introduced Erik Brown as the new Director of Legal Affairs, and highlighted his career.

Pam Thielke, Parole Division Director, introduced Ernestina Balandran as the new Director of Interstate Compact, and highlighted her career and education.

Cody Ginsel, Private Facility Contract Monitoring/Oversight Division Director, introduced Kirstie Legerski as the new Deputy Director of Operations Monitoring, and highlighted her career and education.

Bobby Lumpkin, Manufacturing, Agribusiness and Logistics Division Director, introduced Robert Cade as the new Deputy Director of Transportation and Supply, and highlighted his career and education. He introduced Kirk Moss as the new Deputy Director of Texas Correctional Industries, and highlighted his career and education.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 plus years of service to the state of Texas during the months of January and February 2018. During this time, 67 employees attained 25 years of service, 29 employees attained 30 years of service, 13 employees attained 35 years of service, 3 employees attained 40 years of service, and one employee attained 45 years of service. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

*(Attachment A – Employee Names)*

## **Consideration of Approval of Consent Items**

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 195th TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright asked if there were any amendments, abstentions, or objections to the proposed consent items. Board Member Eric Gambrell abstained from taking action due to his firm representing multiple entities listed on the personal property donations list. Chairman Wainwright acknowledged the abstention and, hearing no further questions, the consent items were approved.

### **Report from the Presiding Officer, Texas Board of Pardons and Paroles**

#### **Overview of the Texas Board of Pardons and Paroles Fiscal Year 2017 Annual Review**

David Gutierrez, Presiding Officer, presented an overview of the Texas Board of Pardons and Paroles (BPP) Fiscal Year 2017 Annual Review. He stated the BPP has seven board members and 14 parole commissioners. Mr. Gutierrez explained they consider individual offenders eligible for parole and discretionary mandatory supervision, and set conditions upon those individuals considered for release. He stated they also determine revocation matters throughout the state for those individuals who allegedly violated a condition(s) of parole and recommend clemency matters to the Governor. In FY 2017, the BPP considered over 101,000 parole and mandatory supervision cases, and over 38,000 revocation and waiver cases. Out of 78,974 parole cases, only 27,595 were approved, reflecting a 34.9% rate. Out of 20,093 discretionary mandatory review cases, 10,301 were approved, reflecting a 51.3% rate. Out of 38,000 parole revocation cases, 6,830 were revoked.

Mr. Gutierrez discussed the audit conducted by the Texas Department of Criminal Justice Internal Audit Division to assess the institutional parole operations and hearing operations. In FY 2017, the recommendations from the results of the audit were implemented to enhance efficiency and create opportunities. The audit showed the institutional parole officer case summaries could be combined to be more efficient. Currently 30% of voting is done electronically. The BPP is working with the Information Technology Division to increase the percentage of voting done electronically and to reduce the amount of time it takes to make decisions. The audit also showed the opportunity to create a new department dedicated to training and auditing. A staff development director has been added to form a team to work on audit and training for quality control within the BPP. Regional training for board members and parole commissioners around the state has been implemented and the hearing officer training was strengthened. Additionally, a victim liaison position was created to work more closely with the TDCJ Victim Services Division to ensure accuracy of information provided, training for members on how to conduct interviews of victims, and how to establish consistency among board offices.

Terrell McCombs commended Mr. Gutierrez for doing a great job implementing the changes needed in the BPP and acknowledged those decisions are not easy to make.

Chairman Wainwright and Mr. Collier thanked Mr. Gutierrez for the fantastic job and great working relationship.

### **Report from the Executive Director, Texas Department of Criminal Justice**

#### **Lucy Webb Hayes Award**

Mr. Collier discussed the Lucy Webb Hayes Award presented to the TDCJ at the American Correctional Association's (ACA) Winter Conference for agency-wide compliance with ACA accreditation standards and the federal *Prison Rape Elimination Act* standards. A small number of agencies receive this national recognition by the ACA. Receiving the award is the result of the cumulative efforts and hard work of many within the TDCJ. Mr. Collier thanked Lorie Davis, Cody Ginsel, Kelvin Scott, and Lynne Sharp for their individual and team efforts in helping the TDCJ receive this honor.

#### **Recent Correctional Officer Salary Adjustment**

Mr. Collier stated the TDCJ has faced a significant challenge with correctional officer staffing over the past year. One year ago, the TDCJ had 1,913 vacant correctional officer positions. Today, there are over 3,600 vacancies. This is attributed to several factors, to include a strong economy and historically low unemployment rates. Over 42% of officers hired leave the TDCJ within the first 12 months of employment. In the past several months, attempts to improve both recruiting and retention of correctional officers have been addressed. The number of units that qualify for a \$4,000 hiring bonus has been increased to 25 units. Creative and visible advertising has been introduced. The number of part time correctional officer positions was increased. The starting pay for correctional officers was increased from \$32,347 to \$36,238. This was accomplished by removing the first two tiers of the correctional officer career ladder, allowing the agency to hire at a higher starting salary and allow officers to progress through five more steps in the career ladder. Continued efforts to improve staffing numbers will remain a top priority of the TDCJ.

### **Report from the Chairman, TBCJ**

#### **Risk Management within the Department**

Chairman Wainwright discussed the Risk Management Program and the proactive measures in place to eliminate or greatly reduce risk exposure. The program began in 1984 and was known as the Safety Department. Former plant maintenance officers were tasked with inspecting facilities and performing safety-related activities. As TDC became TDCJ and grew in both size and responsibility, the Safety Department evolved and became the Risk Management Program, which expanded to a comprehensive loss prevention and control system under the Administrative

Review and Risk Management (ARRM) Division. The mission of the program is to conform to the highest industry standards by conducting objective, honest, and timely inquiries into all perils and risks which expose the TDCJ to potential loss. Some of the most significant risk losses TDCJ has historically faced are claims for employee injuries and workers' compensation costs. Proactive steps and strategic development by the Risk Management Program team, along with TDCJ leadership, has led to an overall reduction in injuries and related expenses. Over the last 15 years, the cost of workers' compensation claims has been reduced by more than 50%. This was accomplished through dedicated management efforts and robust training initiatives. Each day across the system, risk managers are working diligently and collaboratively with divisions to educate and empower staff to integrate safety measures into their daily routines. The end product is a safer environment for offenders and employees. The TDCJ partners with the State Fire Marshal's Office and the State Office of Risk Management in safety efforts. Another important responsibility of the Risk Management Program is serving as the *American with Disabilities Act* (ADA) coordinator. The team organizes the TDCJ's efforts to carry out and comply with ADA responsibilities. Risk managers conduct routine assessments and work with the disabled offender population to promptly resolve issues. The Risk Management Program is working towards the Enterprise Risk Management concept. This is the process of planning, organizing, leading, and controlling the activities of an organization to minimize the effects of risk on its capital earnings. The practice of the Enterprise Risk Management will expand the process within the TDCJ to include not just risks associated with accidental losses but also financial, strategic, operational, and other risks. Chairman Wainwright thanked all for the team effort to reduce or eliminate risk where possible.

### **Internal Audit Status Report for Fiscal Years 2017 - 2018**

Christopher Cirrito, Director for the Internal Audit Division, provided the following updates to the handout of the February 12, 2018, Internal Audit Division Status Report for the Fiscal Years (FY) 2017 - 2018:

- **1706 – Executive Administration, Ethics Programs:** Audit is complete.
- **1707 – Reentry and Integration Division, Continuity of Care:** Audit is complete.
- **1710 – Correctional Institutions Division, Unit Entry and Search Procedures:** Audit is complete.
- **1804 – Board of Pardons and Paroles, Case Summaries Follow-up:** Audit is complete.
- **1805 – Facilities Division, Environmental Branch – Hazardous Materials Storage:** Audit is in field work.

*(Attachment B – Internal Audit Division Status Report, Fiscal Years 2017-2018)*

### **Discussion, Consideration, and Possible Action Regarding Purchases and Contracts over \$1 Million**

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He stated there is one purchase on the list for approval. Item 1 is an increase to a four-year contract in place for the photo and ID system. The increase is attributed to additional initiatives

implemented by the agency over the last four years. Things such as adding the true name to the ID cards to allow for us to expedite the delivery of ID cards to DPS is one example.

Chairman Wainwright asked if the ID cards are for employees or offenders. Mr. McGinty stated it was for both employee ID cards and offender ID cards.

Terrell McCombs asked about the reason for the increase. Mr. McGinty stated, as an example, several years ago TDCJ started adding the true name to the offender ID cards. Sometimes offenders are sentenced under one name, but the true name is verified via birth certificates and social security numbers. When that happens, the true name is added to the offender ID card.

Chairman Wainwright asked for any questions, comments, or abstentions.

*Terrell McCombs moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.*

*Tom Wingate seconded the motion, which prevailed unanimously when called to a vote.*

**Discussion, Consideration, and Possible Action Regarding Review  
of Board Policy BP-01.04, “Standards of Conduct for the  
Texas Board of Criminal Justice and the Executive Director  
of the Texas Department of Criminal Justice”**

Ms. Howell presented BP-01.04, “Standards of Conduct for the Texas Board of Criminal Justice and the Executive Director of the Texas Department of Criminal Justice.” She stated the substantive change to the policy relates to the length of time a board member or executive director must wait before accepting employment from a person who has been involved in a procurement. It reflects the change to two years after the contract is signed or the procurement is terminated or withdrawn.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

*Eric Gambrell moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 01.04, Standards of Conduct for the Texas Board of Criminal Justice and the Executive Director of the Texas Department of Criminal Justice, as presented.*

*Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.*

**Discussion, Consideration, and Possible Action Regarding Proposed  
Amendments to Board Rule Title 37 Texas Administrative Code  
Chapter 152 Correctional Institutions Division**

**1. Subchapter A, Mission and Admissions**

Ms. Howell presented the proposed amendments to Board Rule Title 37 Texas Administrative Code Chapter 152 Correctional Institutions Division Subchapter A, "Mission and Admissions." She explained the proposed revisions consist of board rule 152.1 removing boot camp as a sentencing option, board rule 152.3 containing grammatical changes, and 152.5 re-designating 13 counties to different state jail regions. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

*Tom Wingate moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Chapter 152 Correctional Institutions Division Subchapter A, regarding Mission and Admissions, to receive public comment, as presented.*

*Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.*

**2. Subchapter B, Correctional Capacity**

Ms. Howell presented the proposed amendments to Board Rule Title 37 Texas Administrative Code Chapter 152 Correctional Institutions Division Subchapter B, "Correctional Capacity." She explained the revisions to 152.21 and 152.23 consist of grammatical changes and conforming language to *Texas Register* preference. Rule 152.25 contains the list establishing the maximum capacity for all existing state owned units. The capacity changes fall primarily in three categories: decreases in maximum rated capacity due to permanently shutting down part of a unit or construction, no actual overall capacity change, and capacity increases. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked to clarify if the feedback will be from offenders as well as the public. Ms. Howell affirmed that the feedback will consist of public comments from the *Texas Register* and offender comments from a separate notice that will be posted in the units.

Terrell McCombs asked if the state jail regions were already established or are new. Ms. Howell confirmed the regions were already established.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

*E.F. “Mano” DeAyala moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Chapter 152 Correctional Institutions Division Subchapter B, regarding Correctional Capacity, to receive public comment, as presented.*

*Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.*

**Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 163.25, “Community Justice Council and Plans”**

Ms. Howell presented the proposed amendments to Board Rule 163.25, “Community Justice Council and Plans.” She explained the revisions reflect a statutory focus on strategic planning by community supervision and corrections departments. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

*Tom Fordyce moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 163.25, regarding Community Justice Council and Plans, to receive public comment, as presented.*

*Derrellynn Perryman seconded the motion, which prevailed unanimously when called to a vote.*

**Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 163.42, “Substantial Noncompliance”**

Ms. Howell requested the adoption of amendments to Board Rule 163.42, “Substantial Noncompliance,” as proposed and authorized at the December 15, 2017, TBCJ meeting. She explained the amendments appeared in the December 29, 2017, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

*Patrick O’Daniel moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 163.42, regarding Substantial Noncompliance, as published in the Texas Register, and that the chairman sign the order to this effect.*

*Tom Fordyce seconded the motion, which prevailed unanimously when called to a vote.*

**Discussion, Consideration, and Possible Action**  
**Regarding Proposed Land Transactions**

**1. Request for Gas Pipeline Easement at the Ellis Unit in Walker County, Huntsville, Texas**

Bobby Lumpkin, Director of the Manufacturing, Agribusiness and Logistics Division, presented the request for a gas pipeline easement at the Ellis Unit in Huntsville. He stated Grand Prix Pipeline, LLC is requesting an easement consisting of an area of approximately 3.34 acres of land being 2,909.6 feet long by 50 feet wide for installation of one natural gas liquids pipeline. This request includes temporary workspace totaling 6.16 acres for use during pipeline construction and installation. Grand Prix Pipeline, LLC has agreed to pay \$109,760.00 for the easement with a ten-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

*Derrelynn Perryman moved that the Texas Board of Criminal Justice approve the request for a gas pipeline easement at the Ellis Unit in Walker County, Huntsville, Texas, as presented.*

*E.F. "Mano" DeAyala seconded the motion, which prevailed unanimously when called to a vote.*

**2. Request for Right-of-Way Easements at the Clemens Unit in Brazoria County, Brazoria, Texas**

Mr. Lumpkin presented the request for right-of-way easements at the Clemens Unit in Brazoria County. He stated the Texas Department of Transportation is requesting right-of-way easements consisting of two tracts of land totaling 36.951 acres to facilitate the widening of Texas State Highway 36. The Texas Department of Transportation has agreed to pay \$222,182.00 for these easements. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Chairman Wainwright abstained from taking action due to his firm representing the Texas Department of Transportation, and called for a motion and a second.

*Terrell McCombs moved that the Texas Board of Criminal Justice approve the request for right-of-way easements at the Clemens Unit in Brazoria County, Brazoria, Texas, as presented.*

*Tom Wingate seconded the motion, which prevailed unanimously when called to a vote.*

**Discussion, Consideration, and Possible Action**  
**Regarding Facilities Division Construction Projects –**  
**Request to Replace Steam Lines at the McConnell Unit**  
**in Bee County, Beeville, Texas**

Frank Inmon, Director of the Facilities Division, presented a new project for board consideration requesting to replace steam lines at the McConnell Unit, Bee County, Beeville, Texas. The work will consist of disconnecting the current underground pipe system and installing new steam and condensate lines above ground. If approved, the work will be performed by R.E.C. Industries, Inc. with a total cost of \$1,123,800. Mr. Inmon recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

*Eric Gambrell moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$1,123,800 to replace steam lines at the McConnell Unit located in Bee County, Beeville, Texas, as presented.*

*Tom Fordyce seconded the motion which prevailed unanimously when called to a vote.*

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Friday, April 20, 2018, at the Wyndham Garden Hotel in Austin.

**Adjournment**

There being no further business, Chairman Wainwright recessed the 196th meeting of the Texas Board of Criminal Justice at 12:44 p.m. Chairman Wainwright stated the board would reconvene in the Blanco Room to conduct executive session.

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Chairman\*

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Secretary\*

\*Signature on File